

# EXHIBIT 2

NOT BE CITED EXCEPT AS PROVIDED BY MINN. ST.

Court of Appeals of Minnesota.  
STATE of Minnesota, Respondent,  
v.  
Wakinyan Wakan McARTHUR, Appellant.

No. CA-00-233.  
Sept. 12, 2000.

Richard Hennen County Attorney, Donna J. Wolfson, Assistant County

(Respondent,  
Assistant State Public Defender, St. Paul, MN, for appellant,  
and ANDERSON, Judge

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 cited by KALTOWSKI, Presiding Judge, SHUMAKEN, Judge, with  
 UNPUBLISHED OPINION

Mr. Justice Gauthier appeals from the district court's denial of his petition for postconviction relief. He alleges that the juvenile court's jurisdiction before imposing an adult sentence for murder and, therefore, his conviction must be set aside. We affirm.

William McArthur was eleven years old in 1988 when he had his first conviction for burglary. He was charged with burglary of a residence at the time through 1994. McArthur was the subject of ten delinquency petitions changing him with various charges from 1988 to 1994. He was charged with burglary of a residence, escape from custody, and theft, burglary, false information to police, tampering with a motor vehicle, assault, escape from custody, and theft.

2 juvenile court committed McArthur to the custody of the Juvenile Male Correctional Center, on December 20, 1994, the state filed a delinquency petition charging McArthur with the offense of 200. He was 16 years old at the time.

4. applicant's parents brought him to the emergency room at the Fairview-University Medical Center, where he was admitted to the adolescent psychiatric unit and placed on a medical ward. He was found to have a blood alcohol level of 0.15% and was treated for alcohol withdrawal. He was also treated for anxiety and depressive symptoms. He was discharged on a regimen of fluoxetine and diazepam. He was followed up by his primary care physician and the adolescent psychiatric unit. He was found to have a blood alcohol level of 0.15% and was treated for alcohol withdrawal. He was also treated for anxiety and depressive symptoms. He was discharged on a regimen of fluoxetine and diazepam. He was followed up by his primary care physician and the adolescent psychiatric unit.

The state also sought to have McArthur certified to be tried as an adult on the murder charges. The case was still pending as well.

The determined

[illegible][illegible]

"I asked questions of the court before having received your statement,"

(b)(7) (D)

dear that he had no questions, but that he didn't remember raping the cashier, but if it was on camera then I would have seen it."

and the petition

statements from various persons, the judge stated:

It is considered ordered and adjudged, that you Wakan Macthink, by your plea of guilty to the charge of Murder in the Second Degree and Sexual Assault in the third degree, . . . be hereby committed to the Commissioner of Corrections for a period of 150 months . . . and you be placed on active probation for a 15 year period. . . . The execution of this sentence is hereby stayed for a period of 15 years, and you be placed on active probation for a 15 year period. . . . The court will also order that the sentence on your adult case be served concurrently with your juvenile disposition. . . . The court then stated:

The Court will, based on your earlier admission to an act of delinquency require that you enter and complete the Rebound program. Rebound participation, as the Court has stated, will be concurrent with your adult probationary sentence.

On November 29, 1998, after an evidentiary hearing, the court found that McArthur had violated his probation by possessing a firearm, revoked his probation, and executed his 150-month sentence.

McArthur filed a petition for postconviction relief on October 14, 1999, alleging that the sentencing court "was without jurisdiction over the murder because the juvenile court did not waive jurisdiction . . . ." The postconviction court denied the petition, and McArthur appealed.

A "postconviction proceeding is a collateral attack on a judgment which carries a presumption of finality." State ex rel. Gidy v. Tansh, 279 Minn. 248, 250, 156 N.W.2d 228, 229 (1968), cannot be lightly set aside.

Jurisdictional questions are questions of law that we review *de novo*. 573, 575 (Minn.App. 1995) (personal jurisdiction); *z. Leighton v. Sch. Coalition*, 573, 575 (Minn.App. 1995) (personal jurisdiction); review denied (Minn. June 30, 1992).

The postconviction court denied the petition, ruling that the sentencing court had subject matter jurisdiction over the prisoner's challenge to the written findings for the certification were unnecessary.

The state argues that the sentencing court adjudged him delinquent on the murder charge and not on the escape charge. In *unintelligible*, McArthur claims that the sentencing court adjudged him "less than the record of the hearing." The court's written order as "more conclusive evidence of the court's intent" than the record of the hearing. The court has jurisdiction over the murder charge.

[illegible][illegible][illegible]

Because we hold that the sentencing court properly exercised jurisdiction over the murder charge, we need not address error in finding that the sentencing court had jurisdiction to sentence McArthur as an adult on the murder charge. We need not address the argument that McArthur's challenge to subject matter jurisdiction is untimely.

Affirmed.  
The convictions statute look effect on Jan. 1, 1995, after the murder to which McArthur pleaded

> (FNU). The extended jurisdiction juvenile proceedings  
guilty. > Minn.Stat. § 260.26 (1994).

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